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08/883,710	06/27/1997	ANTHONY DEAN WALKER	RA997020	5463

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JOHN D FLYNN
972 B656
IBM CORPORATION
PO BOX 12195
RESEARCH TRIANGLE PARK, NC 27709

EXAMINER

VU, THONG H

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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Paper No. 19

Application Number: 08/883,710
Filing Date: 06/27/97
Appellant(s): Walker

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Technology Center 2100

Robert A. Voigt, Jr
For Appellant

EXAMINER'S ANSWER

This is in response to appellant's brief on appeal filed 04/02/2001.

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

The brief does not contain a statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief. Therefore, it is presumed that there are none. The Board, however, may exercise its discretion to require an explicit statement as to the existence of any related appeals and interferences.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

Appellant has chosen to group the claims into 4 groups:

Claims 1,5 and 6 form a first group.

Claims 2 and 4 form a second group.

Claims 7,14 and 15 form a third group.

Claims 3,8,9,10,11,12,13,16,17,18 and 19 should not be group together an should be considered separately.

(8) *ClaimsAppealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

The following is a listing of the prior art of record relied upon in the rejection of claims under appeal.

5,719,882

Ellis

02-1998

(10) *Grounds of Rejection*

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-19 are presented for examination.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Claims 1-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis [USP 5,719,882].

4. As per claims 1, 7 and 17 Ellis discloses a communication system or communication network [col 1 lines 5-8], comprising the step of transmitting the first information frame [col 1 lines 52-67];

selectively receiving a first response in response to transmission of the first information frame [col 2 line 5-35];

measuring a first amount of time between transmission of the first information frame and receipt of the first response [col 2 lines 36-65]; and

selectively modifying a response time value in response to the first amount of time [col 6 lines 29-58] wherein said step of measuring a first amount of time between transmission of the first information frame and receipt of the first response uses a timer operating in response to a clock, and wherein said response time value is a response time value of said timer as Ellis implicitly taught a counter is stored which keeps track of successful response from network device ... the maximum response time is set to some initial value [col 5 lines 25-40, 56-62].

Thus the system and method of claims is obvious anticipated by the reference.

5. As per claims 2 and 8, Ellis discloses incrementing an initial response time value by a timer resolution value, to form the response time value [col 5 line 60].

6. As per claims 3 and 16, Ellis discloses incremented up to a maximum response time value

7. ~~As per claims 4 and 14, Ellis discloses the initial response time value is a default value or some initial value [col 5 line 60].~~

8. As per claims 5,15 Ellis discloses the response time approximates an amount of time the communication system requires to transfer the first information frame between a first data processing system and a second data processing system [col 1 line 59-col 2 line 65, col 2 line 25].

9. As per claims 6,19 Ellis discloses the response time value is dynamically modifiable in response to the first amount of time [col 2 lines 30-35,50-53].

10. As per claim 9, Ellis discloses setting a transmit sequence value when the first frame of information is transmitted; initiating operation of a response timer when the first information frame is transmitted; comparing the transmit sequence value and a receive sequence value when the first response is received; and idling operation of the response timer when the transmit sequence value corresponds to the receive sequence value [Ellis col 2 lines 55-64].

11. As per claim 10, Ellis discloses restarting operation of the response timer when the transmit sequence value differs from the receive sequence value [Ellis col 2 lines 19-24].

12. As per claim 11, Ellis disclose transmitting a second information frame; selectively receiving a second response in response to transmission of the second information frame; measuring a second amount of time between transmission of the second information frame and receipt of the second response; and selectively initializing a query timer with a maximum response time value [Ellis Fig 41].

13. As per claims 12 and 13, Ellis disclose selectively modifying the response time value to correspond to a residual time value remaining in a response timer after the second amount of time

has passed and the response time value is selectively modified to equal the residual time value plus a timer resolution value as the inherent features of the adjustable time based on the calculated formula [Ellis col 2 lines 5-65].

14. As per claim 18, Ellis discloses the central processing unit dynamically modifies the response time value in response to the first amount of time [Ellis Fig 4, col 6 line 10].

(11) Response to Argument

(A) Applicant argues the prior art does not disclose "measuring a first amount of time between transmission of the first information frame and receipt of the first response uses a timer operating in response to a clock, and wherein said response time value is a response time value of said timer" as recited in claim 1. Examiner points out that the prior art discloses the maximum response time is measured from the time a message is sent to a network device until the time a response is received from the network device, the currently calculated time used between retries is stored [Ellis col 5 lines 25-40]. Thus, it is obvious the timer or clock has been used to measure the maximum time frame for the sending a request and calculate the response time from the network device.

(B) Applicant argues the prior art does not disclose "initiating operation of a timer with a first response time" as recited in claim 7. Examiner points out the prior art disclose initially, the maximum response time is set to some initial value [Ellis col 5 lines 60]. It is the value of response time is initiated by timing of a timer or clock.

(C) Applicant argues the prior art does not disclose "selectively incrementing the first response time when the first query response has been received" as recited in claim 7. Examiner notes that the prior art discloses making adjustments to RETRY. If a response is received, the counter RESPONSE# is incremented [Ellis col 6 lines 36-37].

(D) Applicant argues the prior art does not disclose "a timer for measuring a first amount of time between transmission of the first information frame and receipt of the first response, the timer being coupled to the interface means" as recited in claim 17. Examiner interprets the counter as an electronic device which measures the response time and retry times based on clock timing (e.g. 100 ms) and connected to other interface devices to transfer the signal [Ellis col 5 line 37, col 6 line 55].

(E) Applicant argues the prior art does not disclose "a central processing unit couple to the timer for selectively modifying a response time value in response to the first amount of time" as recited in claim 17. Examiner notes that the CPU and timer are essential elements which are well-known in all computer network device.

Thus, as explained above, claims 1, 7, 17, are anticipated by the prior art.

(F) Applicant argues the prior art does not disclose "incrementing an initial response time value by a timer resolution value, to form the response time value" as recited in claims 2 and 8. Examiner points out the prior art disclose the incrementing an initial response time value by a timer resolution value such as a sporadic delay time [Ellis col 6 lines 46-58].

(G) Applicant argues the prior art does not disclose "wherein the initial response time value is incremented up to a maximum response time value" as recited in claims 3 and

16. Examiner interprets the initial response time value is incremented up to a maximum

response time value is equivalent to the maximum response time is set to some initial value wherein the initial value may be three seconds [Ellis col 5 lines 60]

(H) Applicant argues the prior art does not disclose "setting sequence value when the first frame of information is transmitted" as recited in claim 9. Examiner points out the prior art disclose that the retry time or sequence value is weighted by a given formula [Ellis col 6 lines 5-10]

(I) Applicant argues the prior art does not disclose "comparing the transmit sequence value" as recited in claim 9. Examiner points out the prior art disclose that the retry time or sequence value is weighted or compared by a given formula [Ellis col 6 lines 5-10].

(J) Applicant argues the prior art does not disclose "idling operation of the response timer when the transmit sequence value corresponds to the receive value" as recited in claim 9. Examiner points out the prior art disclose that the maximum response time is set to some initial value wherein the initial value may be three seconds [Ellis col 5 lines 60].

(K) Applicant argues the prior art does not disclose "restarting operation of the response timer when the transmit sequence value differs from the receive sequence value" as recited in claim 10. Examiner points out the prior art disclose that the hub manager waits for the next contact attempt (or restarting operation) before making further adjustment which means if the next transmit sequence value is differs from the previous values (receive sequence value) and the value response is incremented [Ellis col 6 lines 30-45].

(L) Applicant argues the prior art does not disclose "selectively initializing a query timer with a maximum response timer value" as recited in claim 11. Examiner points out the

prior art disclose that the maximum response time is set to some initial value wherein the initial value may be three seconds [Ellis col 5 lines 60].

(M) Applicant argues the prior art does not disclose "selectively modifying the response timer value to correspond to a residual time value remaining in a response timer after the second amount of time has passed" as recited in claims 12 and 13. Examiner points out the prior art disclose the hub manager waits for the next contact attempt (or restarting operation) before making further adjustment which means if the next transmit sequence value is differs from the previous values (receive sequence value) and the value response is incremented [Ellis col 6 lines 30-45].

(N) Applicant argues the prior art does not disclose "wherein the central processing unit dynamically modifies the response time value in response to the first amount of time" as recited in claim 18. Examiner points out the prior art disclose that the CPU has been programmed to adjust the response time based on the first or initial value [Ellis col 5 lines 56-63, col 6 lines 29-45].

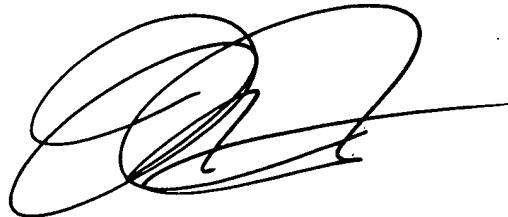
(O) Applicant argues the prior art does not disclose "means for incrementing the response timer value by preselected time period in response to the first amount of time" as recited in claim 19. Examiner points out the prior art disclose the response timer value is increased by preselected time period based on a given formula [Ellis col 6 lines 5-10].

Claims 2-6, 8-16 and 18-19 recite combinations of features including the above described elements which are clearly shown in the reference, thus they are anticipated by the prior art.

Examiner has considered all of applicant's arguments.

For the reasons above, it is believed that the rejections should be sustained.

Respectfully submitted,



MARK H. RINEHART
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

November 01, 2001

Thong Vu
Patent Examiner
Art Unit 2152

Conferee
Robert B. Harrell

ROBERT B. HARRELL
PRIMARY EXAMINER

Robert A. Voigt, Jr
Winstead Sechrest & Minick P.C.
1201 Elm Street
Dallas, Texas 75270-2199